

1 ROBERT E. CAREY, JR., ESQ. (SBN 47556)
CAREY & CAREY
2 706 COWPER STREET
P.O. BOX 1040
3 PALO ALTO, CA 94302-1040
650/328-5510
4 650/853-3632 FAX

5 Attorneys for Defendant
JOSE BONILLA
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 vs.

14 JOSE BONILLA,

15 Defendant.
16

CASE NO. CR-07-00251 RMW

DECLARATION OF COUNSEL
UNDERLYING THE STIPULATION
FOR CONTINUANCE OF HEARING
DATE

17 I, ROBERT E. CAREY, JR., declare:

18 1. I am an attorney licensed to practice law before this Court.

19 2. I represent the Defendant JOSE BONILLA in this matter.

20 3. On January 7, 2009, I filed a motion on behalf of JOSE BONILLA to
21 withdraw the previously-entered pleas of guilty in this matter.

22 4. The Assistant U.S. Attorney will require some period of time in
23 which to respond to that motion; that I have exchanged voice mails with
24 Assistant U.S. Attorney THOMAS O'CONNELL, who has informed me that he has
25 no objection to such a continuance, so that he may respond to the motion.

26 5. I have spoken with the probation officer, Ms. Aylin Raya, and she
27 has informed me that she has no objection to the continuance.

28 6. I am requesting that the matter be set for February 2, 2009, at

1 9:00 am, for hearing on the motion to withdraw the plea, as well as a status
2 conference. My rationale in that regard is as follows: if the Court denies the
3 motion, the matter would ordinarily proceed to judgment and sentence.
4 However, additional information has been submitted to the probation office
5 since December 31, 2008. It is my understanding that the probation officer
6 desires a new referral from the Court in order to place such information in the
7 ultimate presentence report. Consequently, assuming that the motion is
8 denied, at the status conference a new date for the imposition of judgment and
9 sentence can be established which would allow the newly submitted material
10 to be considered by the Court.

11 7. Assuming that the motion is granted, the matter can either be set
12 for trial or, hopefully, a different disposition may be entered into by the
13 Defendant JOSE BONILLA. In that regard, the hearing on February 2 would
14 then either set the case for trial or, alternatively, set a new date for the
15 imposition of judgment and sentence under a different plea disposition.

16 8. I have spoken with both Ms. Raya and Mr. O'CONNELL and I
17 understand that they do not have any objection to the continuance of the date
18 of January 12, 2009. Similarly, I believe that Mr. O'CONNELL does not have
19 any objection to the setting of this matter for the withdrawal of the plea and a
20 status conference on February 2, 2009, at 9:00 am.

21 I declare under the penalty of perjury under the laws of the State of
22 California that the foregoing is true and correct, and that this declaration is
23 made on January 8, 2009 at Palo Alto, California.

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26 _____
ROBERT E. CAREY, JR.